

REMARKS/ARGUMENTS

I. STATUS OF THE CLAIMS

In the final Office action dated August 22, 2006, all pending claims (claims 1, 3, 5, 12-14, 17, 22-26, 36-38, 42, 47, 49, 56 and 68-71) were rejected. Specifically, claims 1, 3, 5, 12-14, 17, 38 and 71 were rejected under 35 U.S.C. § 103(a) as obvious over Crawford (U.S. Patent No. 6,411,943, hereinafter "Crawford") in view of Roger Needham et al. (hereinafter "Roger"). Claims 22-26, 36-37, 42, 47, 49, 56 and 68-70 were rejected under 35 U.S.C. § 102(e) as being anticipated by Crawford. With this Response, Applicants amend claims 1, 22, 24, 26, 37, 47, 49 and 68-70. Applicants also cancel claim 23. Based on the amendments and arguments presented herein, Applicants submit that all currently pending claims are in condition for allowance.

II. SUMMARIES OF CRAWFORD AND ROGER

Crawford teaches a system by which a customer computer (*i.e.*, personal computer) may be used to call an online service system over a telephone line to obtain various services useful to the customer computer, such as antivirus software and auxiliary processing capabilities. The online service system logs data associated with the customer computer and sends a bill to a user of the customer computer for services rendered. In case a customer computer storage device storing software fails, the customer computer accesses the online service system via a network connection and remotely executes a backup copy of the software off of the service system. **Because the customer computer's storage device has failed, the software is not transferred back to the customer computer.** See col. 8, lines 33-41 and col. 13, lines 39-59.

Roger teaches the use of encryption in computer networks to achieve authenticated communication. Roger presents illustrative protocols for the establishment of authenticated connections, for the management of authenticated mail, and for signature verification and document integrity guarantees. See Abstract.

III. REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 3, 5, 12-14, 17, 38 and 71 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Crawford and Roger. Applicants traverse this rejection and submit that the Examiner failed to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, various criteria must be met:

First, ***there must be some suggestion or motivation***, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, ***to modify the reference or to combine reference teachings***. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

MPEP 2141 (emphasis added). Applicants respectfully submit that, not only does the art of record fail to teach or suggest each of the limitations of claim 1, but also that there is no motivation to combine Crawford and Roger to produce the invention of claim 1.

As amended, claim 1 requires “encrypting the restorable resource to form an encrypted restorable resource,” where the restorable resource is identified and encrypted “as a result of [a computer] failure.” Claim 1 further requires “installing the encrypted restorable resource on said computer.” Crawford teaches about computer failure in the context of the failure of a “mass storage device” local to a customer computer (column 8, lines 33-41). Crawford teaches that if a mass storage device of a customer computer fails, a backup copy of software that was stored on that mass storage device can still be remotely executed from the virtual disk of another computer. The customer computer simply accesses the other computer’s virtual disk and remotely executes the backup copy of the software.

However, the software in Crawford is ***not copied*** from the virtual disk back to the customer computer for installation, because the mass storage device has failed and is inoperable to store or install the software. This fact is

corroborated by lines 39-59 of column 13 of Crawford, which explain that a "serious limitation" of the customer computer is that it has limited storage space, that its hard disk "is used to store ... all of the software to be executed" by the customer computer, and even that "limitations on the storage capabilities of [the customer computer] may be troublesome to the user ... if a hard disk failure" occurs. Because the software is not installed on the customer computer, Crawford fails to teach or suggest all limitations of claim 1. Roger fails to satisfy the deficiencies of Crawford. Thus, the combination of Crawford and Roger fails to teach or suggest all limitations of claim 1, and claim 1 is allowable at least for this reason¹.

Moreover, because the software of Crawford is not transferred to the customer computer for installation, there is no motivation to encrypt the software (*i.e.*, the software is not being exposed to a network). Accordingly, there is no motivation to apply the encryption techniques of Roger to the software of Crawford. Claim 1 is further allowable at least for this additional reason.

Based on any or all of the foregoing, independent claim 1 is allowable over the combination of Crawford and Roger. Because independent claims 22 and 47 comprise limitations similar to those of claim 1, independent claims 22 and 47 also are allowable over the combination of Crawford and Roger for the same reasons as is claim 1. Likewise, for the same reasons, dependent claims 3, 5, 12-14, 17, 22, 24-26, 36-38, 42, 49, 56 and 68-71 also are allowable over the combination of Crawford and Roger.

IV. REJECTIONS UNDER 35 U.S.C. § 102(e)

The Examiner rejected claims 22-26, 36-37, 42, 47, 49, 56 and 68-70 under 35 U.S.C. § 102(e) as anticipated by Crawford. However, independent claims 22 and 47 have been amended to comprise limitations which all of the

¹ Applicants also take exception to the Examiner's citation of col 4, lines 34-37 and 55-67 (page 4 of the Office action) as allegedly disclosing the installation of "restorable resources." Applicants respectfully point out that the Examiner is being inconsistent in interpreting the term "restorable resource." The Examiner reads the software of Crawford as being analogous to the "restorable resource" of the claims. However, col. 4, lines 34-37 and 55-67 do not refer to Crawford's software. Instead, electronic documents (*e.g.*, word processing documents) are discussed.

cited art fails to disclose, as explained above under subheading III in the context of claim 1. Thus, independent claims 22 and 47 and dependent claims 24-26, 36-38, 42, 49, 56 and 68-70 are allowable over Crawford at least for this reason. Accordingly, Applicants respectfully request allowance of claims 22, 24-26, 36-38, 42, 47, 49, 56 and 68-70.

V. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,



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